



PUBLIC NOTICE

Federal Communications Commission
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PLEADING CYCLE ESTABLISHED FOR PETITION OF SOUTHEAST TELEPHONE INC. FOR WAIVER OF CLEC ACCESS CHARGE RULES

CC Docket No. 96-262

COMMENTS DUE: April 23, 2004
REPLY COMMENTS DUE: May 3, 2004

On March 30, 2004, Southeast Telephone, Inc. (Southeast) filed a Petition for Waiver of section 61.26(a)(6) of the Commission's rules to permit it to serve customers in metropolitan locations and maintain its eligibility for the "rural exemption" described in section 61.26(e) of the Commission's rules.¹ Section 61.26(a)(6) of the Commission's rules defines a "rural CLEC" as "a CLEC that does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either: (i) [a]ny incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or (ii) [a]n urbanized area, as defined by the Census Bureau."² Under the rules, only a carrier meeting the definition of a rural CLEC is eligible for the "rural exemption," which permits rural competitive LECs to tariff rates up to the highest rate band in the NECA tariff, minus the NECA tariff's carrier common line charge.³

Southeast seeks a waiver of the rule that rural CLECs are ineligible for the rural exemption if they serve any non-rural customers.⁴ According to the petition, Southeast's service area is entirely rural, but it sometimes receives service requests from customers in metropolitan.

¹ See *In the Matter of Access Charge Reform*, CC Docket No. 96-262, Southeast Telephone, Inc. Petition for Waiver, at 1 (filed Mar. 30, 2004) (Waiver Petition).

² 47 C.F.R. § 61.26(a)(6).

³ *Id.* § 61.26(e).

⁴ Waiver Petition at 1.

locations.⁵ Southeast maintains that the definition of a rural CLEC imposes a dilemma on Southeast as it must refuse service to requesting customers in metropolitan areas or sacrifice access revenues available under the rural exemption.⁶ Although Southeast presently qualifies and operates as a rural CLEC under the rules, it seeks a waiver of the definition of a rural CLEC to maintain its eligibility for the rural exemption in non-metropolitan areas "so long as the vast majority (i.e., 95% or more) of its customers are located outside metropolitan areas."⁷ We seek comment on this petition.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **April 23, 2004**, and reply comments on or before **May 3, 2004**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁸

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed.⁹ In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing.¹⁰ Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

⁵ For example, Southeast states that it occasionally receives such requests from small businesses that are based in rural Kentucky but have a small sales office in one of the large cities in the state. *Id.* at 3.

⁶ *Id.* at 5.

⁷ *Id.* at 3.

⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

⁹ If multiple docket or rulemaking numbers appear in the caption of a proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption.

¹⁰ If more than one docket or rulemaking number appear in the caption of a proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St. SW, Suite TW-A325, Washington, DC 20554.

Parties are strongly encouraged to file comments electronically using the Commission's Electronic Comment Filing System (ECFS). Parties are also requested to send a courtesy copy of their comments via email to victoria.schlesinger@fcc.gov.

Two (2) copies of the comments and reply comments should also be sent to Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Room 5-A221, Washington, D.C. 20554. Parties shall also serve one copy with Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 863-2893, or via email to [<qualexint@aol.com>](mailto:qualexint@aol.com).

Documents in CC Docket No. 96-262, including the Petition for Waiver, are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, DC 20554. The documents may also be purchased from Qualex International, telephone (202) 863-2893, facsimile (202) 863-2898.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹¹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹² Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.¹³

For further information, contact Victoria Schlesinger of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-7353.

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¹¹ See 47 C.F.R. §§ 1.1200, 1.1206.

¹² See 47 C.F.R. § 1.1206(b).

¹³ 47 C.F.R. § 1.1206(b).